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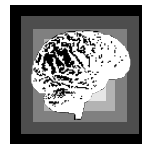
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‘Am I mad?’: the Windham case and Victorian resistance to psychiatry

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Abstract

This article revisits the notorious trial of William Windham, a wealthy young man accused of lunacy. The trial in 1861–2 saw the country’s foremost experts on psychological medicine very publicly debate the concepts, symptoms and diagnosis of insanity. I begin by surveying the trial and the testimonies of medical experts. Their disparate assessments of Windham evoked heated reactions in the press and Parliament; these reactions are the focus of the second section. I then proceed to examine criticism of psychiatry in the newspapers more generally in the 1860s, outlining the political resistance to psychiatry and the responses of some leading psychiatrists. In conclusion, I consider what this says about the politics of medicalization at the time.

Keywords

Anti-psychiatry, expert testimony, insanity, law, medicalization, newspapers, 19th century

Introduction

Court cases involving allegedly insane defendants attracted tremendous popular interest in the 1860s. The British press covered such cases in great detail, and it seems likely that this was where members of the public would have learned whatever they knew about insanity, including its impact on and relevance to rights and politics.¹ These cases and the coverage of them hence offer a rich resource for understanding contemporary public reactions to and political consequences of medicalization.

In this article, I will focus on a case that was particularly famous at the time, involving William Fredrick Windham, a 21-year-old man in possession of a great fortune, who had been accused of lunacy. The Windham family had a distinguished reputation. Windham’s great-uncle had been Home Secretary in the government of William Pitt at the turn of the century, and his uncle was a famous general and hero of the Crimean War. The trouble for the young Windham apparently began shortly after he met and married Agnes Willoughby, a well-known, high-society prostitute. In exchange for marriage, he promised her a sizeable yearly allowance and lavished her with

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expensive gifts. This, in combination with some very bad business decisions, led his uncle and other members of his extended family to request a legal inquiry into the young Windham's sanity, with the purpose of declaring him insane and unfit to manage his wealth. Adding to the drama was the fact that this would put his uncle rather than the young Windham first in line to inherit a valuable estate. The subsequent trial generated a huge amount of attention from the press. Newspapers across the country provided detailed coverage of the proceedings, many of them reporting every day of the trial.

This case is interesting not only because of the amount of popular attention it received. It also attracted some of the most famous psychiatrists of the time as expert witnesses, including John Conolly, Thomas Harrington Tuke, Thomas Mayo and Forbes Winslow. Each of them interviewed Windham and assessed his state of mind, but they came to different conclusions. Conolly and Tuke both vouched for the young man's sanity, while Mayo and Winslow declared that he was insane – with some caveats, as we shall see. During the trial, the nation's foremost experts on madness debated not only the sanity of one man, but also the concepts of insanity, what counted as a symptom, and the practice of diagnosis.

Moreover, the Windham trial has been a subject of several works in the history of psychiatry. Kingsley Jones (1971) has provided the most comprehensive account of the proceedings to date, but he has little to say about its contemporary psychiatric or political implications. Other, briefer treatments, such as those of Peter McCandless (1978) and Clive Unsworth (1993), offer more interesting insights in this regard. McCandless (1978) suggests that the Windham trial was representative of a common public suspicion towards the role of psychiatrists in the legal system. Unsworth (1993: 491) meanwhile observes that the trial and cases like it turned 'into celebrated or notorious cases in which medicine's definitions of insanity were subjected to highly public and supremely intensive investigation', which provided the basis for activist challenges to the authority of psychiatrists. Along similar lines, I will seek to illustrate the public suspicions of the growing authority of psychiatrists and the influence of their ideas on the legal and political arenas, especially with regard to experts' assertions that common emotions and eccentric behaviours could be symptoms of insanity.

My main source of materials for this study has been *Gale Primary Sources*, an online search tool that permits users to search through the major newspaper archives hosted by Gale, including the 17th and 18th Century Burney Collection; 19th Century UK Periodicals; British Library Newspapers (1600–1950); Eighteenth Century Collections Online; The Financial Times Historical Archive, 1888–2010; and The Times Digital Archive (1785–2007). In addition to providing a variety of common search functions – such as basic word searches, keyword searches, title searches, and so forth – the database also enables users to visualize term clusters, as well as to track how term frequency and popularity has changed over time. Frequency here refers to the total number of documents that contain a given search term, and popularity refers to the proportion of documents in a year that contain a given term. I have taken advantage of all these functions. Generally, I have limited my analysis to the primary materials I have found through *Primary Sources*. However, when an article or review has cited another publication or a particular literary work, I have on occasion examined the work in question more closely. For example, when I found a review in *The Standard* of an issue of the *The Medical Critic and Psychological Journal*, I searched out and reviewed the issue myself – much as a contemporary reader might have done.

I begin by surveying the trial and the testimonies of the medical experts. The disparate assessments of Windham and the contradictory medical theories offered by the experts became a subject of intense discussion and even ridicule in the press, as well as in Parliament. These reactions are the focus of the second section. I then proceed to examine criticism of psychiatry in the newspapers more generally, outlining the political resistance to psychiatry at the time, and consider how some leading psychiatrists responded to this criticism.

Windham and the psychiatrists

The formal accusation against Windham was that he was a lunatic, and the Commission de Lunatico Inquirendo had been called to determine the veracity of this claim. The psychiatrists² on the side of the prosecution asserted that Windham was not technically suffering from insanity, but from imbecility, a condition that they further distinguished from 'idiotcy'. The clinical term for imbecility, according to Winslow, was *amentia*. Winslow explained to the court that '*Amentia* is not downright idiotcy, but something intermediate between idiotcy and lunacy' (*Times*, 1862a). Being a milder form of disorder, it did not require institutionalization, but did demand close supervision. Nevertheless, Windham's – alleged – imbecility meant that he was unable to manage his own affairs (*Times*, 1862a).³ Although Winslow insisted on the difference between idiotcy, imbecility (or *amentia*), and lunacy (or insanity), his testimony was a conceptual muddle. Take, for example, the following statement:

Insanity is a disease very difficult to define. . . . Mental unsoundness may be appreciated; it is easily recognized; but it cannot be defined. I cannot better describe my idea of the legal term 'unsoundness of mind' than [as] 'a condition or state of intellect between actual lunacy and idiotcy, or such a degree of mental deficiency as would incapacitate a person for the management of his affairs'. (*Times*, 1862a)

This definition of legal unsoundness of mind was, rather conveniently, more or less identical to Winslow's definition of imbecility.

While these distinctions and definitions seem circular, they were perhaps sufficiently convoluted to suggest to the courtroom audience that psychiatry was a very complex field and that navigating it required considerable expertise. The importance of psychiatric expertise in detecting the almost invisible, generally mundane, and often counterintuitive symptoms of insanity was repeatedly suggested in the psychiatric testimonies of the prosecution (*Times*, 1862a). We should take special note of the claim that insanity 'is easily recognized'. In later statements, Winslow qualified this remark. But it reflects what appears to have been the rather widespread idea that insanity was a conspicuous state.

One of the central symptoms, and key proofs, of Windham's insanity, according to the prosecution's expert witnesses, was his 'utter and entire shamelessness' (*Times*, 1862a). During his interviews with Winslow and Mayo, the two confronted Windham with his evident and alleged indiscretions, which included marrying a well-known prostitute, befriending one of her former clients,⁴ and having once 'been in bed with three women at one time'. When confronted with these claims, Windham responded to each with indifference and laughter, a sure sign of his 'incapacity in regard to the management of affairs', according to his interrogators (*Times*, 1862a). The testimonies of the prosecution's non-expert witnesses apparently corroborated this picture. They described a host of more or less bizarre and childish behaviours, which had earned him the name 'Mad Windham' while he was a student at Eton. His moods were also of particular concern; he was known for both crying and laughing uncontrollably, as well as unexpectedly flying into violent fits of anger.⁵ Another expert on insanity, William Peter Nichols – the chief surgeon of Bethel Hospital and proprietor of Heigham Hall Private Asylum – recounted a meeting with Windham at a ball: 'He shook hands with me and burst into an idiotic laugh, violent laughter . . . I said I was a friend of his father's; he replied in a manner so incoherent as to convince me of the feebleness of his mind' (*Standard*, 1861).

Yet in the courtroom and according to other testimonies, Windham appeared quite calm and sensible. Neither his moods swings, nor his inability to express himself coherently, nor his shamelessness were apparent. Moreover, he had performed adequately in his studies at Eton. He had also expressed himself capably in letters he had written to his mother, which were presented to the court. Windham's

basic rationality and occasional ability to behave himself were not proof of his sanity however. Mayo told the court 'I should attribute his conduct rather to cunning than to a sense of self-respect or decencies of society. The reason is that I know him to be entirely destitute of such feelings'. Mayo explained that to convince him otherwise would require evidence that Windham had behaved himself appropriately in an 'enormous' number of instances. Similarly, Winslow told the court that he currently had patients who one could speak to for an entire day without suspecting that anything was wrong with them, but 'if I gave you the clue, you would detect their infirmity at once' (*Times*, 1862a).

Heredity and physical symptoms were cited as evidence of Windham's insanity as well. Nichols said that he had met Windham for the first time when the latter was four years old. According to Nichols, he had immediately recognized the signs of 'congenital mental mischief' in the boy, which would almost certainly develop into idiocy. Windham had had a misshapen head, been unable to speak, drooled, and let his tongue hang out of his mouth. As an adult, the physical symptoms were admittedly less apparent (*Standard*, 1861). Experts on both sides of the case agreed that drooling was a symptom of idiocy. But even on the side of the prosecution there was disagreement as to whether to count this as a symptom in Windham's case, because of his harelip. Nevertheless, Winslow insisted that the physical signs were present, even if they were difficult for the untrained eye to detect: '[H]is physiognomy is not very strongly marked, nor is it calculated to attract notice . . . But having your attention so directed, you cannot fail to observe physical signs which are unmistakable' (*Times*, 1862b). In other words, recognizing insanity or 'mental unsoundness' is easy, but only as long as you know what to look for.

The expert witnesses of the defence disagreed with their colleagues' assessments, of course. To begin with, the physical symptoms of idiocy and imbecility, when they were present, were not subtle at all. Alexander John Sutherland, another prominent expert, told the court, 'Imbeciles and idiots have generally small misshapen heads, and in idiots I have remarked thick knuckles' (*Times*, 1862c). Windham's head was in fact slightly larger than the average head, according to Sutherland. As regards Windham's mental capacity, the defence's experts all recognized that Windham was certainly not an intelligent man. But he was far from an imbecile. While Windham occasionally drooled due to his harelip, he tried to control it – something idiots never did, apparently. He also spoke and wrote coherently, without signs of delusion or irrationality. Furthermore, 'he was ready to submit with all due deference to the examination of medical men'. Whatever Windham lacked in 'mental power' was probably due to 'improper treatment and neglect' in youth. As far as Windham's choice of spouse was concerned, Conolly remarked that 'A taste for bad company is perfectly compatible with soundness of mind' (*Times*, 1862c).

Despite the common-sense tone of these accounts, their attempts to explain the difference between sanity, idiocy and imbecility were no more coherent than the opposing side's. Tuke simply declared at the outset of his testimony that explaining the distinction between the latter two was needless, since everyone in the room knew what an idiot was (*Morning Post*, 1862). The effort of Sutherland was more elaborate, but not much clearer (*Times*, 1862c). The confusing opacity and contradictions between their theories of madness were not neglected by the newspapers, as we shall see below.

The madness of the mad doctors

After a protracted and expensive trial, the jury returned a verdict declaring Windham sane, to the wide acclaim of newspapers around the country. The outcome of the trial is of little importance in itself. Of greater relevance is the public impact and reaction to the trial. As mentioned, interest in the trial was tremendous, and accounts of it could be found in periodicals of all types, from upper-class magazines like *The Spectator* (1861) to the working-class *Reynolds's Newspaper* (1862a), to

expert publications such as *The Medical Critic and Psychological Journal* (A Member of the Bar, 1862). Once the trial had concluded, the proceedings were published as a book, containing nearly 200 pages of testimonies (Anon., 1862a).

In the newspaper commentaries on the trial, there was little attempt to maintain technical distinctions between insanity, idiocy or any of the other categories enumerated by the expert witnesses. From the perspective of pundits and letter writers, the Windham case had been an argument over whether a young man was insane, and many newspapers had decided that he was sane long before the jury gave its verdict. The testimonies of Winslow and Mayo were derided as 'little short of a breakdown' (*Bell's Life in London*, 1862).⁶ In its commentary on the trial, for example, *The York Herald* (1862) observed that 'in these days of theoretical madness . . . half the doctors who give evidence on insanity, are themselves labouring under delusions, or are the victims of fine theories of their own'. Given the convoluted theories presented to the court, it is easy to see how an editor might come to this conclusion.

Joining in the celebration of the trial's outcome, one working-class paper noted that an alternative verdict would have set a very dangerous precedent: 'If every young man of extravagant, immoral, or eccentric habits is to be dubbed a lunatic, we fear the statistics of this kingdom, or of any other, would show a sad depreciation' (*Bell's Life in London*, 1862). Indeed, what seem to have stimulated most comment and outrage in the newspapers were the behaviours of Windham that the prosecution and its witness had claimed were symptoms of insanity.⁷ The author of a letter to the editor of *The Morning Chronicle* (1862), entitled 'Am I mad?', expressed incredulity at Windham's supposed symptoms of madness, and sardonically admitted that, apart from slobbering, crying and flaunting marital impropriety, he himself was guilty of the same and some even worse indiscretions than Windham. He recounted how he had on occasion jumped fences, fed women with his bare hands, imitated animals and given his friends discounts in business deals. Was he, then, insane? Had it not been for the judicious decision of the jury, the author said he would have had reason to worry. With a note of seriousness, he added a caution: 'A man may surely do what he will with his own. If not, and if every one who misapplies either time or money, or both, is to be considered a lunatic, our country will become a gigantic asylum.'

The reporting from the Windham case suggests several things. The testimonies of the psychiatrists demonstrated to the public the disjointedness of their field. Not only did the foremost experts on insanity of the country disagree on whether Windham's eccentric behaviours should be considered symptoms of disease, but they could not even agree on a basic definition of insanity or imbecility. As we have seen, this did not go unnoticed by the pundits. Furthermore, readers who followed the Windham trial closely would probably have detected the signs of hostility between the experts. For instance, Conolly dismissed Winslow's use of the term 'amentia' as obsolete, and he directly criticized Mayo's method of examination, calling it 'a very severe test'. In light of this, it is unsurprising that some people perceived psychiatry as suffering from 'theoretical madness'.

There was, evidently, some popular resistance to the expanding authority of psychiatry. Commentaries on the trial demonstrate a deep concern that concepts of madness could be used to deprive innocent people of their liberty and property. The notion that somewhat erratic behaviours and indiscretions – particularly among young men – could be signs of insanity was ridiculed and summarily rejected. The disjunction between the experts' and the general public's views on insanity, in the courtroom and beyond, thus indeed appears to have been profound, as Andrew Scull (1993: 264) has argued. According to him, such a disconnect was to be expected, since psychiatrists had focused their efforts on converting the elites to their perspective. Considering, however, that even highbrow publications such as *The Spectator* (1861) regarded the Windham trial as an illegitimate application of tenuous psychiatric ideas, it seems that some members of the elite were equally keen to keep the authority of psychiatry in check.⁸

This is evidenced partly by the strong reaction that the proceedings of the Windham trial evoked in Parliament. Shortly after the trial's conclusion, the Lord Chancellor Westbury introduced the Lunacy Regulation Bill to the House of Lords, in part and explicitly in response to the trial (House of Lords, 1862). Widespread public outrage at the trial was also a factor, as one opponent of the bill, Lord Chelmsford, observed: 'The extraordinary length of the trial, the nature of the evidence, and the contradictory testimony of medical men, conspired to raise a feeling in the public mind that the law was defective' (*Times*, 1862e).

The bill proposed, among other things, that the use of medical evidence should be restricted in lunacy commissions, as well as in criminal trials. One way the Lord Chancellor suggested that this could be achieved was by imposing time constraints on the evidence presented in court. The Windham trial had demonstrated the urgency of such a limit. Westbury pointed to the testimony of Nichols as a particularly appalling example. As mentioned above, Nichols claimed that he had recognized the seed of congenital insanity in Windham when he was only four years old, based on a number of traits, including the shape of his head. Moreover, the Lord Chancellor reminded the peers that Nichols had claimed that he had been able to recognize the germination of insanity by Windham's laughter. 'Now, was it reasonable to go back 20 years with such inquiries?', Westbury asked. 'Was it reasonable to have a judgment taken on an issue so framed as to depend on the shape of the head at four years old, and the laugh being that of an imbecile?' (*Times*, 1862e).

For our purposes, the specifics of the bill are less interesting than these kinds of remarks, which challenged the authority and legitimacy of psychiatric diagnoses as well as of the psychiatrists themselves – or the 'mad doctors' as critics liked to call them.⁹ Supporters of the bill mercilessly attacked psychiatrists' claims that commonplace demeanours and physical features could be symptoms of madness. Much to the amusement of other members, Westbury read from what he claimed was a book of great authority within the medical profession, according to which intense emotions, bristly hair, shrivelled ears and ugliness could all be signs of madness (*Times*, 1862e).

Lord Shaftesbury, another prominent supporter of the bill, criticized what he perceived as the lack of common sense among the mad doctors. They were, according to him, often ignorant of the world around them, invoking examples in which a liberal view of Jews or keeping a weapon for self-defence had been cited as symptoms of insanity. Furthermore, Shaftesbury observed that these supposed experts could not even agree on what madness was among themselves (*Times*, 1862e). Any reasonable person could recognize madness, Shaftesbury claimed. Yet according to him, the law as it stood denied people this right and 'forced them to adopt instead of their own moral conclusions, the speculative views of members of the medical profession' (*Times*, 1862f). Interestingly, similar claims about the proper scope of psychiatry would later arise in relation to the early movement for women's suffrage, when some of its opponents were claiming that politics would be harmful to the mental health of women (Degerman, 2019: ch. 7).

Victorian anti-psychiatry?

While I have focused here on a single case, sceptical assessments of psychiatry in the courtroom, and society generally, appear to have figured frequently in the newspapers of the 1860s. It seems likely that these attitudes had been shaped in part by the activism of the Alleged Lunatics' Friends Society; although not central to the present case study, it should certainly be mentioned in this context.¹⁰ The Society was a civil libertarian organization that had formed in 1845 to prevent the unjust confinement of individuals declared insane. Using several arguments similar to those raised in the wake of the Windham trial, the Society gained some notable victories before disbanding in 1863. As one historian has pointed out, however, the Society seems to have been relatively uninterested in high-profile cases like that of Windham (Hervey, 1986).

Reporting at the time suggests that there was a widespread sense that the insanity plea in criminal trials had grown far too common in recent years. Some even claimed that psychiatrists were inventing new forms of insanity, such as kleptomania, to help the rich to avoid punishment (e.g. *Dundee Courier and Daily Argus*, 1863; *Reynolds's Newspaper*, 1870).

As the Windham case indicates, journalists and their readers were suspicious about the characteristics and behaviours that the psychiatrists considered symptoms of madness.¹¹ These suspicions were sometimes stated with great intensity. In a letter to the editor of *Reynold's Newspaper*, a concerned citizen argued that the so-called 'signs of insanity' that psychiatrists recounted in the courtroom were dangerously broad and ill-defined:

[I]t appears that whatever injuries or insults a man or woman may be subjected to, he or she (for the liberty of women even more than the liberty of men, is imperilled by the new theory) must not give way to passion or excitement of any kind, on pain of being pronounced mad, and shut up in a lunatic asylum. (*Reynolds's Newspaper*, 1862b)

The notion that passions and their expressions were in themselves symptoms of insanity was something that many commentators found offensive, particularly in legal contexts.

Writing in the immediate wake of the Windham trial, a journalist at *The Times* drew attention to the contradictions between the experts' theories of insanity and the principles protecting individuality that John Stuart Mill had set out in his celebrated essay *On Liberty* (1977/1859). Whereas Mill had called for society to tolerate and protect the eccentrics whose thinking defied the traditions of the majority, the mad doctors seemed to preach the opposite. The journalist claimed that according to the experts on insanity, 'Madness begins when the operations of the single mind begin to vary from the operations of the great mass of minds' (*Times*, 1862g). *Reynolds's Newspaper* (1862a) similarly warned its readers that the psychiatrists could construe practically anything out of the ordinary as a sign of madness: 'The least deviation from ordinary behaviour – the slightest violation of the conventional customs of society – any oddity in dress – every eccentricity of speech, walk, or gesture, is construed by these sleuth-hounds of madness into a symptom of insanity.'

Diatribes against the theories of madness were often accompanied by attacks on the psychiatrists themselves, who were responsible for formulating these 'disgusting teachings' (*Reynolds's Newspaper*, 1862a). Several pundits challenged their expertise and questioned whether it was even necessary to have any kind of medical education in order to identify insanity.¹² We have already seen the term 'mad doctor' applied to the experts on insanity; the term seems to have been a favoured slur among the profession's critics, and abhorred by its members.¹³

A well-known psychiatrist and Professor of Medicine at Edinburgh University, Thomas Laycock, rebuked the contemporary use of 'mad doctor'. In a published lecture, in which he plainly attempted to defend the authority of psychiatrists, Laycock denounced the term as both unworthy of civilized people and harmful to the insane themselves:

It is undoubtedly a contemptuous and opprobrious term of vulgar origin, and one cannot understand why it should be so readily and freely used in such high quarters. The phrase 'mad doctor' has also its effect upon those whose misfortune it is to be deprived of their reason; because calculated to obstruct that flow of sympathy and kindness which they especially need more than any other of the sick and infirm. (Laycock, 1862: 14)¹⁴

The lecture itself, entitled *The Antagonism of Law and Medicine in Insanity, and Its Consequences*, was a reaction to the ongoing debate in the House of Lords on the Lunacy

Regulation Bill mentioned above. The disrespectful and inflammatory language used in the debate clearly infuriated Laycock and other members of the medical profession. *The British Medical Journal* commented, 'Really, there is something senile, as well as pitiable, in the jokes cut by my Lord Chancellor and my Lord Shaftesbury on the evidence of the "mad doctors," as they call them' (Anon., 1862b). Clearly, psychiatrists did not take kindly to the term, something of which the newspapers seemed well aware. In articles critical of psychiatry, practitioners were often referred to 'mad doctors'.¹⁵ Meanwhile, this term was seemingly eschewed on occasions when newspapers wanted to highlight, for example, the danger posed by the increased rates of lunacy, or the tragedy of some particular case of insanity.

The public challenges to the authority of psychiatrists and its scope understandably worried psychiatrists. An article in *The Medical Critic and Psychological Journal* – a publication founded and edited by Winslow – expressed concern over the negative effects that the devaluation of medical evidence would have on the public understanding of insanity, not just in court but in society more broadly. The article is worth quoting at length:

To depreciate medical evidence in cases of lunacy is to seek to set aside whatever light has been thrown in the past half-century upon this complex affection; it is to subject to popular apprehension questions in the decision of which even the most acute minds might well hesitate; it is to sacrifice the interest of the individual to the prejudice of the many. Insanity is a fact not limited by its legal bearings; it has a much wider scope and higher interest. It is the fruitful source of untold misery, wretchedness, and pain, escape from which is alone possible by the recognition of the truth that insanity is a disease, amenable, as other diseases, to the care and treatment of the physician. Except as a disease, the very notion of insanity falls to the ground, and the existence of this disease is inferred upon the same principles of observation and reasoning as the existence of any other disease. Insanity, indeed, is a fact of inference, not a fact per se – a fact deduced from other facts, not a primary fact; and this deduction is not one of so glaring a character that it is patent to every one . . . (Anon., 1862c)

Interestingly, *The Standard* (1862) reproduced this extract in a review, claiming falsely that it pertained to the Windham case.

Part of what makes the extract remarkable is its similarity in both form and substance to twenty-first century defences of psychiatry. Significantly, however, it was formulated in a wider context, where the authority of psychiatry was being forcefully challenged outside the walls of the asylum. It is also noteworthy for its correspondence to Michel Foucault's ideas of psychiatric power. Most of the key elements that Foucault (2006) identified within nineteenth-century psychiatric power appear in the statement. There are references to a diffuse truth of insanity, the superiority of the psychiatric gaze, and the risks of unseen and uncontrolled madness. Even the idea that cure requires acceptance of the truth is present. Yet we have seen that the very reason these claims were made was precisely because their authority was in question. It does not show that the gaze of psychiatry had penetrated into the family. If anything, it indicates that some family members had directed their gaze at psychiatry, and they did not necessarily like what they saw.

By the end of the decade some had even begun to question whether there really was an epidemic of insanity at all, or whether it was something conjured up by psychiatrists for their own benefit. *The Examiner and London Review* (1869) observed that there was no question that these 'dealers in the misery and mystery of madness' were perfectly capable of filling every new asylum that was built in short order. 'But', the magazine asked, 'does it really follow that more of us are going mad than formerly; or only that we are become the dupes of a system [which] is really a compound of inhumanity and imposture?'

Conclusion

What emerges from the Windham trial, its aftermath, and newspaper coverage of similar cases is a sense of the deep suspicions that many Victorians in the 1860s seem to have had towards the growing authority of psychiatrists and their ideas in the legal and political arenas. These suspicions were especially strong with respect to claims that common emotions and eccentric behaviours could be symptoms of insanity. Pundits and politicians, as well as ordinary people, spoke out publicly against this authority, with some concrete political consequences.

I have argued that news coverage of the court cases in the 1860s indicates that the authority of psychiatry and its scope were perhaps not as strong as some have suggested. Nevertheless, we should not underestimate the impact that the sustained and highly publicized presence of psychiatry in the courtroom had on the public's awareness and understanding of insanity and its symptoms, especially in the longer term. Roger Smith (1981) has argued that medicalization did not increase or speed up within the legal system in the nineteenth century. He has also questioned whether the perception of psychological medicine as 'an adjunct of social control' was ever particularly novel. However, these claims apparently entail a rather narrow conception of medicalization as a process. The fact that there existed, prior to the nineteenth century, institutions whose agents treated certain behaviours as medical conditions does not show that medicalization is old news. A condition was not medicalized simply because a few experts agreed to call something a disease, write a book about it, and then go out into the world and look for it. As Foucault understood well, it also has to do with knowledge and power; people must think that something looks like a medical disorder and they must act as if it is a medical disorder.

If we understand that medicalization involves these factors, then the change in the nineteenth century is manifest. First of all, it is well known that the asylum population grew significantly during this time (e.g. Scull, 1993: 337), which seems to suggest that more people than before acted upon some suspicion that they or people around them suffered from something that looked like disorder – they may even have believed them to be insane – and brought them to the attention of experts. I would, however, like to distinguish between laymen acting on medical knowledge and experts acting on it. It may be that what changed in the nineteenth century was simply the effectiveness of existing institutions – or institutions that were very similar to those that existed before. In that case, Smith might still be correct. Yet – and this is the second point – there is good reason to believe that the general population's knowledge, or at least awareness, of insanity also grew significantly over the nineteenth century. For example, the number of items in newspapers published during 1860–9 containing the words 'insanity' or 'madness' in combination with 'murder' was three times the number in papers published in the period 1830–9. Of course, the radical increase is due in part to the fact that the number of newspapers increased as well. But this does not change the meaning of the evidence. It seems fair to assume that the more articles there are about madness, the more people are likely to have read about it. Also, even when the document numbers are put in proportion to the total number of publications, a comparison between the two decades still shows a significant 25 per cent increase.¹⁶

Over time, then, it seems likely that the public's exposure to ideas about insanity through courtroom reports should have contributed to a growing awareness of psychiatry and its ideas. But how does this compute with my previous claim that the psychiatric gaze and authority had not yet penetrated the family in the 1860s? It has to do with people's doubts about the truth of psychiatric knowledge. Many people simply did not recognize that socially inappropriate weeping and bursts of anger were symptoms of insanity, although psychiatrists claimed that this was the case. Thus, I think it is consistent to claim that while psychiatry had not achieved the degree of authority that Foucault projects onto it, psychiatric awareness was spreading at a considerable rate, setting the stage for its future eminence as a science and practice.

This also says something interesting about the political impact of medicalization at the time; namely, that even though psychiatric concepts were already quite pervasive in public discourse, people seemed reluctant to use them in political contexts. One of the reasons for this may be that the contemporary understanding and influence of fundamental political concepts, like liberty, functioned as a bulwark against novel medical ideas that seemed to infringe on them, as an earlier reference to Mill suggests.¹⁷ Of course, we have also seen that conflicting understandings of the meaning of insanity itself also helped to limit the authority of psychiatrists. Given this, a potentially fruitful avenue for future research might be to explore whether and how the conceptual dichotomies and attitudes shaped by the Windham controversy might have affected the public discourse surrounding the two landmark political events that followed later in the decade: the enfranchisement of (some) working class men, and the launch of the movement for women's suffrage.

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Notes

1. A keyword search in *Gale Primary Sources* (<https://www.gale.com/intl/primary-sources>) for the string <insanity OR madness> between 1 January 1860 and 31 December 1869 finds 901 documents categorized as news. A search within these documents for <trial OR court OR crime OR murder> yields 542 documents. This suggests that a large majority of the news articles mentioning madness also had to do with the legal issues. Term cluster analysis of 'insanity' corroborates this conclusion: 'murder', 'doctor', 'plea' and 'cases' were the four words most closely associated with insanity, with 'murder' topping the list.
2. I am aware that 'psychiatry' and 'psychiatrist' are anachronistic terms in this context. The academic literature often speaks of alienists of course, but this has been an extremely rare term in the primary sources I have reviewed for this article. When the pejorative 'mad doctor' was not used, newspapers usually spoke of physicians or medical experts. From the perspective of the twenty-first century reader, however, these latter terms seem to be liable to obscure the fact that we are talking about a certain kind of expert and expertise. For the sake of clarity, I have therefore referred to the expert witnesses as psychiatrists and their field as psychiatry.
3. The majority of anonymous press reports discussed here were published in 1862 or soon afterwards, so it would be confusing to cite them all as anonymous. Instead, citations give the newspaper titles (sometimes shortened). See reference list (a).
4. It was unclear whether she had in fact stopped sleeping with the person in question.
5. For example *Caledonian Mercury*, 1861a; *Morning Post*, 1861; *Standard*, 1861.
6. This was not the last time that the editors of *Bell's Life* singled out Winslow for criticism. Almost two years later, an opinion piece named Winslow as one example of 'two mischievous extremes' within psychiatry. It claimed that if Winslow had his way, crime itself would be considered a symptom of madness; the greater the crime the greater the madness (*Bell's Life in London*, 1863).
7. For example *Caledonian Mercury*, 1861b; *Punch*, 1862; *Times*, 1862d.
8. Relatedly, Crossley (2006: 68) has observed that the few individuals who publicly resisted their diagnoses of insanity in the eighteenth and nineteenth centuries generally appear to have been wealthy men.
9. Westbury's call to exclude medical evidence from the courtroom was rejected by his colleagues. The version of the bill that was eventually passed into law did impose a restriction on medical evidence, albeit much less stringent than Westbury had wanted. The act decreed that any evidence regarding the sanity of the subject of an inquiry could only extend two years back, unless the judge or master of lunacy presiding over the inquiry said otherwise (Anon., 1863).
10. Some scholars and activists have been keen to emphasize the continuity between the Society and latter-day movements (e.g. Hervey, 1986; see also Crossley, 2006).

11. For example *Bell's Life in London*, 1863; *Birmingham Daily Post*, 1865; *Blackburn Standard*, 1864; *Examiner*, 1865; *Leeds Mercury*, 1862; *Liverpool Mercury*, 1866; *Southampton Herald*, 1862; *Times*, 1864; see also Berry, 1869.
12. For example *Glasgow Daily Herald*, 1865; *Saturday Review*, 1865; *Times*, 1862g.
13. Notably, there are very few mentions of mad doctors in the newspapers before 1830. A search in *Gale Primary Sources* for the string <"mad doctor" OR "mad-doctor" OR "mad doctors" OR "mad-doctors"> produces only two document with these terms. (Between 1708 – which is as far back as *Primary Sources* permits a search to look – and 1800, these terms appeared in only 10 newspaper articles.) From the 1830s, the usage then increases significantly, until it drops sharply in the 1890s. From 1900 onwards, it was almost never used. Already by 1830, 'mad doctor' seemed to have been used mostly as a pejorative term, with newspapers calling for government to rein in the influence of the 'speculative mad doctors' (e.g. *Sheffield Independent*, 1830).
14. The same extract was quoted in *Caledonian Mercury*, 1862.
15. For example *Examiner*, 1865; *North Wales Chronicle*, 1866; *Punch*, 1867.
16. Again searching *Primary Sources*, I found 278 documents published in 1834 that contained the search string <(insanity OR madness) AND murder>; in 1864, there were 1405 documents published with the same combination of words – a five-fold increase. However, the increase was not linear, and the number of publications with this word combination varies significantly from year to year. Comparing the total number of documents containing the string in the 1830s (3245) and the 1860s (10,613), we also find a tremendous increase of 327 per cent. If we put these numbers in relation to the total number of documents published in each decade (897,569 documents in the 1830s; 2,346,080 in the 1860s) there is an increase of 25 per cent, which is more modest but still significant.
17. Busfield (1986: 284) has made a similar observation.

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